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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,512	04/12/2004	John F. Schaupp	14266 (3030-74238)	3037

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EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,512	Applicant(s) SCHAUPP ET AL.	
	Examiner Yewebdar T. Tadesse	Art Unit 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/31/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claim 6 is withdrawn in view of the reference(s) to Seitz et al (US 4,520,949). Rejections based on the cited reference(s) follow.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2-5 and 7-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 2-5 and 11-12, replacing the word "somewhat" with the word "substantially" introduces new matter issue in each claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-10, 13 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seitz et al (US 4,520,949).

With respect to claims 5-6, Seitz et al discloses (see Figs 3 and 8-9) a dispenser (applicator 12) including an opening (head or bell 18 with opening) through which coating material is dispensed, a coupling (coupling fittings 52) for coupling the opening to a source of coating material to be dispensed (see column 3, lines 4-9) and a shroud (housing) for enclosing at least a portion of the dispenser (12), the shroud including two portions (housing members 30, 32) which abut each other at first and second joints (see joint area on each side of the housing member, alignment plates provided on member 32) which extend generally longitudinally of the shroud. Seitz et al lacks teaching about the measurement of the subtending arcs of the two portions. However, the claimed ranges can be achieved within the level of ordinary skill in the art by routine optimization in order to securely fit the two portions. It is within the scope of Seitz et al. disclosure.

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Therefore one of ordinary skill in the art would have been led to the recited dimensions or measurements through routine experimentation and optimization. Applicant has not disclosed that the measurements are for a particular unobvious purpose, produce an unexpected result, or are otherwise critical, and it appears prima facie that the process would possess utility using another dimension. Indeed, it has been held that mere dimensional limitations are prima facie obvious absent a disclosure that the limitations are for a particular unobvious purpose, produce an unexpected result, or are otherwise critical. See, for example, In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984); *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See also MPEP 2144.04(IV)(B).

As to claims 2-4, in Seitz et al the shroud (housing) comprises a cylindrical or circular shroud.

As to claims 7-8, Seitz et al discloses (see columns 3-4, lines 65-68 and 1-2 respectively) the shroud portions made of any material including non-conductive material.

Regarding claim 9, Seitz et al discloses (see Fig 3) the shroud portions include inner sidewalls having grooves (holes 78), which extend generally longitudinally therealong.

As to claim 10, Seitz et al discloses (see Figs 8-9) a first of the shroud portions (30) including a lateral edge having a first feature (see Fig 8) and a second of the

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shroud portions having a lateral edge having a second feature (see Fig 9 member 32 with alignment plate 76) which is complementary to the first feature.

As to claim 13, Seitz et al discloses (see Fig 9) a gasket (alignment plate 76) interposed between the first and second features.

With respect to claims 15-16, Seitz et al discloses (see Figs 2 and 4) a dispenser including a forward end (26) adjacent the opening (head 18), wherein the forward end (26) including a lip (38) for cooperating with a groove (flange 42 with notches 46) extending around a perimeter and provided on a forward end of a first one of the second portions to facilitate engagement of the forward end of first and second shroud portions with the forward end (26) of the dispenser.

As to claims 17-18, Seitz et al discloses (see Fig 5) a dispenser including a rearward end (28) having a ring (56) including at least one tab (screws 68), for cooperating with a flange provided with at least one passageway (sleeve 66) of the at least one tab during assembly of the shroud, provided on a rearward end of first and second shroud portions to facilitate engagement of the rearward end of the first one of the shroud portions with the forward end of the dispenser.

Regarding claims 19-20, Seitz et al discloses (see Figs 2-3) a dispenser including a forward end (26) adjacent the opening (head 18), the forward end (26) including ramp surface provided on the flange (notch 46 on a flange 42) for cooperating with a tab (pin 44) provided on a forward end of first and second shroud portions to facilitate engagement of the forward end of the first one of the shroud portions with the forward end (26) of the dispenser.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seitz et al (US 4,520,949) in view of Glover et al (US 4,611,887).

Seitz et al discloses (see Figs 3 and 8-9) a dispenser (applicator 12) including an opening (head or bell 18 with opening) through which coating material is dispensed, a coupling (coupling fittings 52) for coupling the opening to a source of coating material to be dispensed (see column 3, lines 4-9) and a shroud (housing) for enclosing at least a portion of the dispenser (12), the shroud including two portions (housing members 30, 32) which abut each other at first and second joints (see joint area on each side of the housing member, alignment plates provided on member 32) which extend generally longitudinally of the shroud. Seitz et al lacks teaching shroud portions including complementary V-bottomed groove and V-shaped edge. However a housing member having complementary V-shaped groove and projection is known in the art, such as shown by Glover et al (see column 4, lines 36-41). It would have been obvious to one of ordinary skill at the time the invention was made to include shroud or housing portions including complementary V-bottomed groove and V-shaped edge in Seitz et al to attain a proper and easy connection of the two portions.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seitz et al (US 4,520,949) as applied to claim 5 and further in view of Weinstein et al (Des. 283,832) and Alexander et al (US 5,632,448). Seitz et al lacks teaching a source of pulverulent coating material. Weinstein et al teaches (see Fig 1) a spray apparatus

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housing, of the type shown by Seitz et al, used for liquids and powder coating material. Alexander et al discloses (see column 2, lines 55-57) a rotary powder applicator supplied with powder-bearing air stream. It would have been obvious to one of ordinary skill at the time the invention was made to include a source of pulverulent coating material in Seitz et al to apply powder coating material on the substrate as desired.

Response to Arguments


9. Applicant's arguments filed 12/30/2005 have been fully considered but they are not persuasive. With respect to the 112 2nd paragraph rejection of claim 6, the examiner withdraws the rejection. However, the amendment introduces new matter issue in claims 2-5 and 7-20 as described above. As describe above in the art rejections the applicants' specification do not show the criticality of the subtending arc measurements of the portions of the particular dispenser. One in the art would size the shroud portions of Seitz et al's dispenser as claimed throughout optimization and experimentation. As such, it would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the portions of the housing or shroud of the dispenser as claimed to perfectly adjoin the two portions.

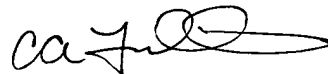
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


YTT


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